

House File 2503 - Introduced

HOUSE FILE 2503

BY BENNETT and

RUNNING-MARQUARDT

A BILL FOR

- 1 An Act relating to price increases for goods, services, and
- 2 lodging occurring during a declared emergency, and providing
- 3 penalties.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714.16D Declared emergencies —
2 maximum lawful prices.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "*Building materials*" means lumber, construction tools,
6 windows, and other items used in building or rebuilding
7 property.

8 b. "*Consumer food items*" means the same as "*food*" as defined
9 in section 137F.1.

10 c. "*Declared emergency*" includes a "*disaster*" as defined
11 in section 29C.2, and "*public health disaster*" as defined in
12 section 135.140, as declared by the governor or other state or
13 local official with declaration authority.

14 d. "*Emergency supplies*" includes water, flashlights,
15 radios, batteries, candles, blankets, soaps, diapers, temporary
16 shelters, tape, toilet paper, tissues, paper towels, gasoline
17 generators, chainsaws, food coolers, tarps, charcoal, propane
18 tanks, toiletries, plywood, nails, and hammers.

19 e. "*Fuel*" means any energy source used to power a motor
20 vehicle or power tool including gasoline and propane.

21 f. "*Medical supplies*" includes prescription and
22 nonprescription medications, bandages, gauze, isopropyl
23 alcohol, and antibacterial products.

24 g. "*Repair or reconstruction services*" means services
25 performed by any person who is required to be licensed under
26 the state for repairs to residential or commercial property
27 that is damaged as a result of the disaster.

28 h. "*Transportation, freight, and storage services*" means
29 services performed by a company to move, store, or transport
30 personal or business property or that rents equipment for those
31 purposes, including towing services.

32 2. a. During a declared emergency and for a period of
33 thirty days following the end of the declared emergency, a
34 person or business shall not sell or offer to sell building
35 materials, consumer food items, emergency supplies, fuel,

1 home heating oil, medical supplies, repair or reconstruction
2 services, or transportation, freight, and storage services for
3 a price of more than ten percent above the price charged by
4 that person or business for those goods or services immediately
5 prior to the declared emergency.

6 *b.* A person or business not engaged in selling building
7 materials, consumer food items, emergency supplies, fuel,
8 home heating oil, medical supplies, repair or reconstruction
9 services, or transportation, freight, and storage services
10 immediately prior to the declared emergency shall not charge a
11 customer more than ten percent above the average price charged
12 in the state for the same good or service immediately prior to
13 the declared emergency.

14 *c.* A seller may increase the price of building materials,
15 consumer food items, emergency supplies, fuel, home heating
16 oil, medical supplies, repair or reconstruction services, or
17 transportation, freight, and storage services greater than ten
18 percent if the seller can prove either of the following:

19 (1) The price increase is directly attributable to
20 additional costs the supplier of the goods imposed on the
21 seller.

22 (2) The price increase is directly attributable to
23 additional costs for labor or materials used to provide the
24 services.

25 *d.* Where a seller increases the price of building materials,
26 consumer food items, emergency supplies, fuel, home heating
27 oil, medical supplies, repair or reconstruction services, or
28 transportation, freight, and storage services pursuant to
29 paragraph "*c*", the increase in price shall not be greater than
30 ten percent of the total cost to the seller plus the amount of a
31 customary markup applied in the usual course of business prior
32 to the declared emergency.

33 *e.* A seller offering building materials, consumer food
34 items, emergency supplies, fuel, home heating oil, medical
35 supplies, repair or reconstruction services, or transportation,

1 freight, and storage services on a discounted sales price prior
2 to the declared emergency may use the nonsale price of the
3 goods or services for purposes of this subsection.

3. During a declared emergency and for a period of thirty days following the end of the declared emergency, an owner or operator of a hotel, motel, or other lodging or room service shall not increase regular rates advertised immediately prior to the declared emergency greater than ten percent. An owner or operator may increase the price if the increase is directly attributable to additional costs imposed on the owner or operator for goods or services used in the regular course of business, including seasonal adjustments in rates.

13 4. The provisions in this section may be extended as
14 necessary for an additional thirty-day period by the governor,
15 public elected official, or the general assembly.

16 5. A violation of this section is a serious misdemeanor
17 punishable by imprisonment not exceeding one year and a fine
18 not exceeding ten thousand dollars, or both. A violation of
19 this section constitutes an unlawful practice pursuant to
20 section 714.16.

EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to price increases for goods, services,
25 and lodging occurring during a declared emergency.

26 The bill defines "building materials" to mean lumber,
27 construction tools, windows, and other items used in building
28 or rebuilding property. The bill defines "declared emergency"
29 to include a "disaster" as defined in Code section 29C.2, and
30 "public health disaster" as defined in Code section 135.140, as
31 declared by the governor or other state or local official with
32 declaration authority. The bill defines "emergency supplies"
33 to include water, flashlights, radios, batteries, candles,
34 blankets, soaps, diapers, temporary shelters, tape, toilet
35 paper, tissues, paper towels, gasoline generators, chainsaws,

1 food coolers, tarps, charcoal, propane tanks, toiletries,
2 plywood, nails, and hammers.

3 The bill provides that during a declared emergency and for 30
4 days following the end of the declared emergency, a person or
5 business shall not sell or offer to sell building materials,
6 consumer food items, emergency supplies, fuel, home heating
7 oil, medical supplies, repair or reconstruction services, or
8 transportation, freight, and storage services for a price of
9 more than 10 percent above the price charged by that person
10 or business for the same items or services immediately prior
11 to the declared emergency. The bill provides that a person
12 or business not engaged in selling certain goods or services
13 immediately prior to the declared emergency shall not charge a
14 customer more than 10 percent above the average price charged
15 in the state for the same good or service immediately prior to
16 the declared emergency.

17 The bill provides that a seller may increase the price of
18 certain goods or services greater than 10 percent if the seller
19 can prove that the price increase is directly attributable to
20 costs imposed by the supplier of the goods or costs for labor
21 or materials used to provide the services. The increase in
22 price shall not be greater than 10 percent of the total cost to
23 the seller plus the amount of a customary markup applied in the
24 usual course of business prior to the declared emergency.

25 The bill provides that a seller offering certain goods or
26 services for a sale price prior to the declared emergency may
27 use the nonsale price of the good or service for purposes of
28 calculating price increases under the bill.

29 The bill provides that during a declared emergency and for 30
30 days following the end of the declared emergency, an owner or
31 operator of a hotel, motel, or other lodging or room service
32 shall not increase regular rates advertised immediately prior
33 to the declared emergency greater than 10 percent, but may
34 increase the price if the increase is directly related to costs
35 imposed on the owner or operator for goods or services used in

1 the regular course of business.

2 The bill provides that cost controls established by the bill
3 may be extended as necessary for an additional 30-day period by
4 the governor, public elected official, or the general assembly.

5 The bill provides that a violation of the provisions of the
6 bill is a serious misdemeanor punishable by imprisonment not
7 exceeding one year, a fine not exceeding \$10,000, or both. The
8 attorney general may prosecute violations of the bill as an
9 unlawful practice under Code section 714.16 (consumer frauds).

10 Under current administrative law, a seller is prohibited
11 from charging an excessive price for merchandise needed by
12 disaster victims during and for a period following a disaster
13 (61 IAC 31.1). A violation of the administrative law is an
14 unfair practice under Code section 714.16. Merchandise needed
15 by disaster victims includes water, food, medicines, sanitation
16 supplies, utilities, building materials, and materials, goods,
17 or services for cleanup or repair.